

## § 1717.354

forth in the RUS documents to assure that the borrower will be able to make required payments on secured loans and to otherwise meet the terms of the RUS documents.

### § 1717.354 Pre-emption.

State Regulatory Authority jurisdiction over an RUS borrower's rates shall be pre-empted by the RE Act and RUS shall have exclusive jurisdiction over the borrower's rates:

(a) On October 19, 1990, with respect to any borrower by or against whom a case under the Bankruptcy Code of 1978, as amended, was commenced prior to and remains outstanding on October 19, 1990; and

(b) With respect to all other borrowers, upon the filing of a petition by or against the borrower commencing a case under the Bankruptcy Code of 1978, as amended.

### § 1717.355 RUS required rates.

(a) Upon the pre-emption of State Regulatory Authority as provided in this subpart, RUS will exercise exclusive jurisdiction over the rates of the borrower pursuant to the terms of the RUS documents.

(b) So long as the State Regulatory Authority shall be pre-empted hereunder, RUS shall be considered the governmental regulatory body with jurisdiction over rates for all purposes, including for the purposes of the RUS documents and for the purposes of section 1129(a)(6) of the Bankruptcy Code of 1978, as amended (11 U.S.C. 1129(a)(6)).

(c) RUS shall, pursuant to the terms of the RUS documents, exercise exclusive jurisdiction over the rates of the borrower until the Administrator shall in writing approve the resumption of jurisdiction by the State Regulatory Authority. The Administrator shall approve resumption only after determining that such jurisdiction shall be exercised in a manner consistent with Federal interests.

### § 1717.356 Additional statutory pre-emption.

This subpart addresses pre-emption of State law and State Regulatory Authority upon the filing of a petition by or against the borrower commencing a

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case under the Bankruptcy Code of 1978, as amended. Nothing in this subpart waives, limits, or otherwise affects the explicit pre-emption or pre-emption, which is implicit and shall occur pursuant to the RE Act as a matter of law, of State law or action of a State Regulatory Authority where such State law or such action compromises Federal interests, including the ability of any borrower to repay loans made or guaranteed by RUS.

## Subparts I-L [Reserved]

## Subpart M—Operational Controls

SOURCE: 60 FR 67405, Dec. 29, 1995, unless otherwise noted.

### § 1717.600 General.

(a) *General.* The loan contract and mortgage between the Rural Utilities Service (RUS) and electric borrowers imposes certain restrictions and controls on the borrowers and gives RUS (and other co-mortgagees in the case of the mortgage) the right to approve or disapprove certain actions contemplated by the borrowers. Certain of these controls and approval rights are referred to informally as “operational controls” because they pertain to decisions or actions with respect to the operation of the borrowers' electric systems. The approval authority granted to RUS by the loan contract or mortgage regarding each decision or action subject to controls is often stated in broad, unlimited terms. This subpart lists the main operational controls affecting borrowers and establishes for each area of control the circumstances under which RUS approval of a decision or action by a borrower is either required or not required. In some cases, only the general principles or general circumstances pertaining to RUS approval or control are presented in this subpart, while the details regarding the circumstances and requirements of RUS approval or control are set forth in other RUS regulations. Since this subpart addresses only the main operational controls, failure to address a control or approval right in this subpart in no way invalidates such controls or rights established by the loan